

Representative Timothy D. Hawkes proposes the following substitute bill:

PROPERTY TAX CHANGES

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Timothy D. Hawkes

Senate Sponsor: Howard A. Stephenson

LONG TITLE

General Description:

This bill modifies the property tax valuation and appeals processes for county assessed real property.

Highlighted Provisions:

This bill:

- defines terms;
- modifies the burden of proof for appeals involving certain real property for which there was a reduction in value as a result of a taxpayer appeal during the previous taxable year;
- creates an automatic county review process for certain real property valuations or equalizations that exceed a threshold; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:



26 **59-2-109**, as enacted by Laws of Utah 2016, Chapter 392
27 **59-2-303**, as last amended by Laws of Utah 1993, Chapter 245
28 **59-2-311**, as last amended by Laws of Utah 2005, Chapter 182
29 **59-2-1004**, as last amended by Laws of Utah 2016, Chapter 98
30 **59-2-1004.5**, as last amended by Laws of Utah 2008, Chapter 382

31 ENACTS:

32 **59-2-303.2**, Utah Code Annotated 1953

34 *Be it enacted by the Legislature of the state of Utah:*

35 Section 1. Section **59-2-109** is amended to read:

36 **59-2-109. Burden of proof.**

37 (1) As used in this section[, "**assessing**]:

38 (a) "**Assessing authority**" means:

39 [~~(a)~~] (i) the commission for property assessed under Part 2, Assessment of Property;
40 and

41 [~~(b)~~] (ii) a county assessor for property assessed under Part 3, County Assessment.

42 (b) "**Final assessed value**" means:

43 (i) for real property for which the property owner appealed the valuation or
44 equalization in accordance with Section 59-2-1004, the assessed value given to the real
45 property by a county board of equalization after the appeal; or

46 (ii) for real property for which the property owner or a county assessor appealed the
47 valuation or equalization in accordance with Section 59-2-1006 or sought judicial review of the
48 valuation or equalization in accordance with Section 59-1-602 or Title 63G, Chapter 4, Part 4,
49 Judicial Review, the assessed value given to the real property by the commission.

50 (c) "**Inflation adjusted value**" means the final assessed value for the previous taxable
51 year of the real property that is the subject of the appeal increased by the median property value
52 increase.

53 (d) "**Median property value increase**" means the midpoint of the property value
54 changes, if the midpoint is greater than zero, for all real property that is:

55 (i) of the same class of real property as the qualified property; and

56 (ii) located within the same county and within the same market area as the qualified

property.

(e) "Property value change" means the percentage change in the fair market value of real property between January 1 of the previous year and January 1 of the current year.

(f) "Qualified real property" means real property:

(i) for which:

(A) the taxpayer or a county assessor appealed the valuation or equalization in accordance with Section 59-2-1004 or 59-2-1006 during the previous year; and

(B) as a result of the appeal described in Subsection (1)(f)(i)(A), a county board of equalization or the commission reduced the assessed value for the previous taxable year;

(ii) that the taxpayer has not improved between January 1 of the previous taxable year and January 1 of the current taxable year; and

(iii) for which the assessed value for the current taxable year is higher than the inflation adjusted value.

(2) Notwithstanding Section 59-1-604, in an action appealing or seeking judicial review of the value of property assessed by an assessing authority, the assessing authority has the burden of proof before a county board of equalization, the commission, or a court of competent jurisdiction[;] if the assessing authority presents evidence or otherwise asserts that the fair market value of the assessed property is greater than the value originally assessed by the assessing authority for that calendar year.

(3) (a) (i) Notwithstanding Section 59-1-604, in an action appealing or seeking judicial review of the value of qualified real property assessed by a county assessor, the county assessor has the burden of proof before a county board of equalization, the commission, or a court of competent jurisdiction if the taxpayer does not seek to reduce the assessed value of the qualified real property for the current taxable year below the inflation adjusted value.

(ii) The burden remains on the county assessor even if the previous year's valuation is:

(A) pending judicial review requested in accordance with Section 59-1-602 or Title 63G, Chapter 4, Part 4, Judicial Review; or

(B) overturned by a district court as a result of judicial review requested in accordance with Section 59-1-602 or Title 63G, Chapter 4, Part 4, Judicial Review.

(b) In an action appealing or seeking judicial review of the value of qualified real property assessed by a county assessor, the taxpayer has the burden of proof before a county

board of equalization, the commission, or a court of competent jurisdiction if the taxpayer seeks to reduce the assessed value of the qualified real property for the current taxable year below the inflation adjusted value.

Section 2. Section **59-2-303** is amended to read:

59-2-303. General duties of county assessor.

(1) ~~[Prior to]~~ (a) Before May 22 each year, the county assessor shall:

(i) ascertain the names of the owners of all property ~~[which]~~ that is subject to taxation by the county~~[-and shall]~~;

(ii) except as provided in Subsection (2), assess the property to the owner, claimant of record, or occupant in possession or control at ~~[12 o'clock midnight of January 1 in the tax year, unless a subsequent conveyance of ownership of the real property was recorded in the office of the county recorder more than 14 calendar days before the date of mailing of the tax notice. In that case, any tax notice may be mailed, and the tax assessed, to the new owner. No mistake in the name or address of the owner or supposed owner of property renders the assessment invalid.]~~ midnight on January 1 of the taxable year; and

(iii) conduct the review process described in Section [59-2-303.2](#).

(b) No mistake in the name or address of the owner or supposed owner of property renders the assessment invalid.

(2) If a conveyance of ownership of the real property was recorded in the office of a county recorder after January 1 but more than 14 calendar days before the day on which the county treasurer mails the tax notice, the county assessor shall assess the property to the new owner.

~~[(2)]~~ (3) A county assessor shall become fully acquainted with all property in ~~[his]~~ the county assessor's county, as provided in Section [59-2-301](#).

Section 3. Section **59-2-303.2** is enacted to read:

59-2-303.2. Automatic review of assessed value of review property.

(1) As used in this section:

(a) "Final assessed value" means:

(i) for a review property for which the property owner did not appeal the valuation or equalization in accordance with Section [59-2-1004](#), the assessed value as stated on the valuation notice described in Section [59-2-919.1](#);

(ii) for a review property for which the property owner appealed the valuation or equalization in accordance with Section 59-2-1004, the assessed value given to the review property by a county board of equalization after the appeal; or

(iii) for a review property for which the property owner or a county assessor appealed the valuation or equalization in accordance with Section 59-2-1006 or sought judicial review of the valuation or equalization in accordance with Section 59-1-602 or Title 63G, Chapter 4, Part 4, Judicial Review, the assessed value given to the review property by the commission.

(b) "Median property value change" means the midpoint of the property value changes for all real property that is:

(i) of the same class of real property as the review property; and

(ii) located within the same county and within the same market area as the review property.

(c) "Property value change" means the percentage change in the fair market value of real property between January 1 of the previous year and January 1 of the current year.

(d) "Review property" means real property located in the county:

(i) that between January 1 of the previous year and January 1 of the current year has not been improved; and

(ii) for which the county assessor did not conduct a detailed review of property characteristics during the current taxable year.

(e) "Threshold increase" means an increase in a review property's assessed value for the current taxable year compared to the final assessed value of the review property for the previous taxable year that is:

(i) the median property value change plus 15%; and

(ii) \$10,000.

(2) (a) Before completing and delivering the assessment book to the county auditor in accordance with Section 59-2-311, the county assessor shall review an assessment of review property for which the assessed value for the current taxable year is equal to or exceeds the threshold increase.

(b) The county assessor shall retain a record of the properties for which the county assessor conducts a review in accordance with this section and the results of that review.

(3) (a) If the county assessor determines that the assessed value of the review property

reflects the review property's fair market value, the county assessor shall not adjust the review property's assessed value.

(b) If the county assessor determines that the assessed value of the review property does not reflect the review property's fair market value, the county assessor shall adjust the assessed value of the review property to reflect the fair market value.

(4) The review process described in this section does not supersede or otherwise affect a taxpayer's right to appeal or to seek judicial review of the valuation or equalization of the taxpayer's review property in accordance with:

(a) this part;

(b) Title 59, Chapter 1, Part 6, Judicial Review; or

(c) Title 63G, Chapter 4, Part 4, Judicial Review.

Section 4. Section **59-2-311** is amended to read:

59-2-311. Completion and delivery of assessment book -- Signed statement required -- Contents of signed statement -- Adjustment of assessment in assessment book.

(1) ~~[Prior to]~~ Before May 22 each year, the county assessor shall complete and deliver the assessment book to the county auditor.

(2) The county assessor shall subscribe and sign a statement in the assessment book substantially as follows:

I, _____, the assessor of _____ County, do swear that before May 22, _____ (year), I made diligent inquiry and examination, and either personally or by deputy, established the value of all of the property within the county subject to assessment by me; that the property has been assessed on the assessment book equally and uniformly according to the best of my judgment, information, and belief at its fair market value; that I have faithfully complied with all the duties imposed on the assessor under the revenue laws including the requirements of Section [59-2-303.1](#); and that I have not imposed any unjust or double assessments through malice or ill will or otherwise, or allowed anyone to escape a just and equal assessment through favor or reward, or otherwise.

(3) Before completing and delivering the assessment book under Subsection (1), the county assessor shall adjust the assessment of property in the assessment book to reflect an adjustment in the taxable value of any property if the adjustment in taxable value is made:

(a) by the county board of equalization ~~[under]~~ in accordance with Section

181 59-2-1004.5 ~~;~~ ~~and~~ on or before May 15; or

182 ~~[(b) on or before May 15.]~~

183 (b) by the county assessor in accordance with Section 59-2-303.2.

184 Section 5. Section **59-2-1004** is amended to read:

185 **59-2-1004. Appeal to county board of equalization -- Real property -- Time**
186 **period for appeal -- Decision of board -- Extensions approved by commission -- Appeal to**
187 **commission.**

188 (1) As used in this section:

189 (a) "Final assessed value" means:

190 (i) for real property for which the property owner appealed the valuation or
191 equalization in accordance with Section 59-2-1004, the assessed value given to the real
192 property by a county board of equalization after the appeal; or

193 (ii) for real property for which the property owner or the county assessor appealed the
194 valuation or equalization in accordance with Section 59-2-1006 or sought judicial review of the
195 valuation or equalization in accordance with Section 59-1-602 or Title 63G, Chapter 4, Part 4,
196 Judicial Review, the assessed value given to the real property by the commission.

197 (b) "Inflation adjusted value" means the final assessed value for the previous taxable
198 year of the real property that is the subject of the appeal increased by the median property value
199 increase.

200 (c) "Median property value increase" means the midpoint of the property value
201 changes, if the midpoint is greater than zero, for all real property that is:

202 (i) of the same class of real property as the qualified property; and

203 (ii) located within the same county and within the same market area as the qualified
204 property.

205 (d) "Property value change" means the percentage change in the fair market value of
206 real property between January 1 of the previous year and January 1 of the current year.

207 (e) "Qualified real property" means real property:

208 (i) for which:

209 (A) the taxpayer or a county assessor appealed the valuation or equalization in
210 accordance with Section 59-2-1004 or 59-2-1006 during the previous year; and

211 (B) as a result of the appeal described in Subsection (1)(e)(i)(A), a county board of

equalization or the commission reduced the assessed value for the previous taxable year;

(ii) that the taxpayer has not improved between January 1 of the previous taxable year and January 1 of the current taxable year; and

(iii) for which the assessed value for the current taxable year is higher than the inflation adjusted value.

~~[(1)]~~ (2) (a) A taxpayer dissatisfied with the valuation or the equalization of the taxpayer's real property may make an application to appeal by:

(i) filing the application with the county board of equalization within the time period described in Subsection ~~[(2)]~~ (3); or

(ii) making an application by telephone or other electronic means within the time period described in Subsection ~~[(2)]~~ (3) if the county legislative body passes a resolution under Subsection ~~[(7) authorizing applications to be made]~~ (8) authorizing a taxpayer to make an application by telephone or other electronic means.

(b) (i) The county board of equalization shall make a rule describing the contents of the application ~~[shall be prescribed by rule of the county board of equalization].~~

(ii) In addition to any information the county board of equalization requires, the application shall include information about:

(A) the burden of proof in an appeal involving qualified real property; and

(B) the process for a taxpayer who owns qualified real property to learn the inflation adjusted value of the qualified real property.

~~[(2)]~~ (3) (a) Except as provided in Subsection ~~[(2)(b)]~~, (3)(b) and for purposes of Subsection (1), a taxpayer shall make an application to appeal the valuation or the equalization of the taxpayer's real property on or before the later of:

(i) September 15 of the current calendar year; or

(ii) the last day of a 45-day period beginning on the day on which the county auditor provides the notice under Section 59-2-919.1.

(b) ~~[Notwithstanding Subsection (2)(a), in]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules providing for circumstances under which the county board of equalization is required to accept an application to appeal that is filed after the time period prescribed in Subsection ~~[(2)]~~ (3)(a).

~~[(3) The owner]~~

(4) (a) Except as provided in Subsection (4)(b), the taxpayer shall include in the application under Subsection ~~[(4)]~~ (2)(a)(i) the ~~[owner's]~~ taxpayer's estimate of the fair market value of the property and any evidence ~~[which]~~ that may indicate that the assessed valuation of the ~~[owner's]~~ taxpayer's property is improperly equalized with the assessed valuation of comparable properties.

(b) (i) For an appeal involving qualified real property:

(A) the county board of equalization shall presume that the fair market value of the qualified real property is equal to the inflation adjusted value; and

(B) except as provided in Subsection (4)(b)(ii), the taxpayer may provide the information described in Subsection (4)(a).

(ii) If the taxpayer seeks to prove that the fair market value of the qualified real property is below the inflation adjusted value, the taxpayer shall provide the information described in Subsection (4)(a).

~~[(4)]~~ (5) In reviewing evidence submitted to a county board of equalization by or on behalf of an owner or a county assessor, the county board of equalization shall consider and weigh:

(a) the accuracy, reliability, and comparability of the evidence presented by the owner or the county assessor;

(b) if submitted, the sales price of relevant property that was under contract for sale as of the lien date but sold after the lien date;

(c) if submitted, the sales offering price of property that was offered for sale as of the lien date but did not sell, including considering and weighing the amount of time for which, and manner in which, the property was offered for sale; and

(d) if submitted, other evidence that is relevant to determining the fair market value of the property.

~~[(5)]~~ (6) (a) The county board of equalization shall meet and hold public hearings as ~~[prescribed]~~ described in Section ~~59-2-1001~~.

(b) The county board of equalization shall make a decision on each appeal filed in accordance with this section within ~~[a 60-day period]~~ 60 days after the day on which the taxpayer makes an application ~~[is made]~~.

(c) The commission may approve the extension of a time period provided for in

Subsection ~~[(5)]~~ (6)(b) for a county board of equalization to make a decision on an appeal.

(d) Unless the commission approves the extension of a time period under Subsection ~~[(5)]~~ (6)(c), if a county board of equalization fails to make a decision on an appeal within the time period described in Subsection ~~[(5)]~~ (6)(b), the county legislative body shall:

(i) list the appeal, by property owner and parcel number, on the agenda for the next meeting ~~[of]~~ the county legislative body ~~[that is held]~~ holds after the expiration of the time period described in Subsection ~~[(5)]~~ (6)(b); and

(ii) hear the appeal at the meeting described in Subsection ~~[(5)]~~ (6)(d)(i).

(e) The decision of the county board of equalization shall contain:

(i) a determination of the valuation of the property based on fair market value~~[-]~~; and

(ii) a conclusion that the fair market value is properly equalized with the assessed value of comparable properties.

(f) If no evidence is presented before the county board of equalization, ~~[it will be presumed]~~ the county board of equalization shall presume that the equalization issue has been met.

(g) (i) If the fair market value of the property that is the subject of the appeal deviates plus or minus 5% from the assessed value of comparable properties, the county board of equalization shall adjust the valuation of the appealed property ~~[shall be adjusted]~~ to reflect a value equalized with the assessed value of comparable properties.

(ii) Subject to Sections 59-2-301.1, 59-2-301.2, 59-2-301.3, and 59-2-301.4, equalized value established under Subsection ~~[(5)]~~ (6)(g)(i) shall be the assessed value for property tax purposes until the county assessor is able to evaluate and equalize the assessed value of all comparable properties to bring ~~[them]~~ all comparable properties into conformity with full fair market value.

~~[(6)]~~ (7) If any taxpayer is dissatisfied with the decision of the county board of equalization, the taxpayer may file an appeal with the commission as ~~[prescribed]~~ described in Section 59-2-1006.

~~[(7)]~~ (8) A county legislative body may pass a resolution authorizing taxpayers owing taxes on property assessed by that county to file property tax appeals applications under this section by telephone or other electronic means.

Section 6. Section 59-2-1004.5 is amended to read:

59-2-1004.5. Valuation adjustment for decrease in taxable value caused by a natural disaster.

(1) For purposes of this section:

(a) [~~"natural"~~] "Natural disaster" means:

(i) an explosion;

(ii) fire;

(iii) a flood;

(iv) a storm;

(v) a tornado;

(vi) winds;

(vii) an earthquake;

(viii) lightning;

(ix) any adverse weather event; or

(x) any event similar to an event described in this Subsection (1), as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act[~~;~~ and].

(b) "~~[natural]~~ Natural disaster damage" means any physical harm to property caused by a natural disaster.

(2) Except as provided in Subsection (3), if, during a calendar year, property sustains a decrease in taxable value that is caused by natural disaster damage, the owner of the property may apply to the county board of equalization for an adjustment in the taxable value of the owner's property as provided in Subsection (4).

(3) [~~Notwithstanding Subsection (2), an~~] An owner may not receive the valuation adjustment described in this section if the decrease in taxable value described in Subsection (2) is:

(a) due to the intentional action or inaction of the owner; or

(b) less than 30% of the taxable value of the property described in Subsection (2) before the decrease in taxable value described in Subsection (2).

(4) (a) To receive the valuation adjustment described in Subsection (2), the owner of the property shall file an application for the valuation adjustment with the county board of equalization on or before the later of:

- 336 (i) the deadline described in Subsection ~~59-2-1004~~(2)(3); or
337 (ii) 45 days after the day on which the natural disaster damage described in Subsection
338 (2) occurs.
- 339 (b) The county board of equalization shall hold a hearing:
340 (i) within 30 days ~~[of]~~ after the day on which the county board of equalization receives
341 the application described in Subsection (4)(a) [is received by the board of equalization]; and
342 (ii) following the procedures and requirements of Section ~~59-2-1001~~.
343 (c) At the hearing described in Subsection (4)(b), the applicant shall have the burden of
344 proving, by a preponderance of the evidence:
345 (i) that the property sustained a decrease in taxable value, that:
346 (A) was caused by natural disaster damage; and
347 (B) is at least 30% of the taxable value of the property described in this Subsection
348 (4)(c)(i) before the decrease in taxable value described in this Subsection (4)(c)(i);
349 (ii) the amount of the decrease in taxable value described in Subsection (4)(c)(i); and
350 (iii) that the decrease in taxable value described in Subsection (4)(c)(i) is not due to the
351 action or inaction of the applicant.
352 (d) If the county board of equalization determines that the applicant has met the burden
353 of proof described in Subsection (4)(c), the county board of equalization shall reduce the
354 valuation of the property described in Subsection (4)(c)(i) by an amount equal to the decrease
355 in taxable value of the property multiplied by the percentage of the calendar year remaining
356 after the natural disaster damage occurred.
357 (e) The decision of the board of equalization shall be provided to the applicant, in
358 writing, within 30 days ~~[of]~~ after the day on which the county board of equalization concludes
359 the hearing described in Subsection (4)(b) [is concluded].
360 (5) An applicant that is dissatisfied with a decision of the county board of equalization
361 under this section may appeal that decision under Section ~~59-2-1006~~.

362 **Section 7. Effective date.**

363 If approved by two-thirds of all the members elected to each house, this bill takes effect
364 upon approval by the governor, or the day following the constitutional time limit of Utah
365 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
366 the date of veto override.